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16 Attorneys for Defendants
17 NESTLÉ USA, INC.,
18 SAVE MART SUPERMARKETS,
19 and THE KROGER COMPANY

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARK BEASLEY, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

LUCKY STORES, INC., NESTLÉ USA,
INC., SAVE MART SUPER MARKETS,
THE KROGER COMPANY, and THE SAVE
MART COMPANIES, INC.,

Defendants.

Case No. 4:18-cv-07144-HSG

Honorable Haywood S. Gilliam, Jr.

STIPULATION AND ORDER:
1. EXTENDING TIME TO RESPOND TO
FIRST AMENDED COMPLAINT; AND
2. SETTING BRIEFING SCHEDULE ON
ANTICIPATED MOTION TO REMAND

*[Declaration of Dale J. Giali and [Proposed]
Order filed concurrently herewith]*

Complaint Filed: October 29, 2018

1 Pursuant to Civil Local Rules 6-2 and 7-12, plaintiff Mark Beasley (“plaintiff”) and
2 defendants Save Mart Supermarkets, Nestlé USA, Inc., and The Kroger Company
3 (“defendants”), by and through their respective counsel of record, hereby stipulate as follows:

4 WHEREAS, on October 29, 2018, plaintiff filed his initial complaint in this action in the
5 Superior Court for County of San Francisco, Case No. CGC-18-570953;

6 WHEREAS, on November 26, 2018, defendants removed this case from the Superior
7 Court for County of San Francisco;

8 WHEREAS, on November 30, 2018, and without obtaining an extension of time to
9 respond, defendants filed a motion to dismiss and a motion to strike in response to plaintiff’s
10 initial complaint. ECF Nos. 14, 16;

11 WHEREAS, on December 14, 2018, instead of responding to defendants’ motions,
12 plaintiff filed a notice stating that he would elect to amend the complaint within the time allotted
13 by the Federal Rules. ECF No. 18;

14 WHEREAS, pursuant to Fed. R. Civ. P. 15(a)(1), plaintiff has until and including
15 December 21, 2018 to file his amended complaint;

16 WHEREAS, plaintiff has stated that he intends to file a motion for remand;

17 WHEREAS, the parties have conferred and agree that it is in the interest of judicial
18 economy to postpone any anticipated response to the amended complaint until after the motion
19 for remand is decided;

20 WHEREAS, defendants will have just two weeks to review, analyze, and respond to
21 plaintiff’s motion for remand. This two-week period will span multiple holidays, and will
22 include time during which both defendants and its attorneys have planned office closures;

23 WHEREAS, so as to provide sufficient time to consider and assess the motion for
24 remand, and to accommodate defendants’ and their counsels’ schedules during the holiday
25 period, defendants have requested, and plaintiff has consented, to extend the briefing schedule on
26 the motion for remand;

1 WHEREAS, this extension of time to answer or otherwise respond to the first amended
2 complaint, and the extension of time on the briefing schedule for the motion for remand, will not
3 alter the date of any event or deadline already fixed by Court order;

4 WHEREAS, the parties agree that neither will be prejudiced by the agreed-upon
5 extension or briefing schedule, nor will this litigation be unreasonably delayed;

6 WHEREAS, this is the first time modification to a date set by the Court or by the Federal
7 Rules of Civil Procedure has been sought by the parties in this matter;

8 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the parties,
9 through their respective counsel, that:

10 1. Defendants will have until fourteen (14) days after an order is issued by the Court
11 on the motion for remand to respond to plaintiff's amended complaint;

12 2. Defendant's opposition to plaintiff's motion for remand will be due no later than
13 January 16, 2019; and

14 3. Plaintiff's reply in support of his motion for remand will be due no later than
15 January 30, 2019.

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17 Dated: December 17, 2018

MAYER BROWN LLP
Carmin R. Zarlenga
Dale J. Giali
Keri E. Borders

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20 By: /s/ Dale J. Giali
Dale J. Giali
Attorneys for Defendants
NESTLE USA, INC.,
21 SAVE MART SUPERMARKETS,
22 and THE KROGER COMPANY
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1 Dated: December 17, 2018

THE WESTON FIRM
Gregory S. Weston
Andrew C. Hamilton

3
4 By: /s/ Gregory S. Weston
Gregory S. Weston
Attorneys for Plaintiff
5 MARK BEASLEY

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7 **ATTESTATION**

8 I, Dale J. Giali, hereby attest, pursuant to Civil Local Rule 5-1(i)(3), that concurrence in
9 the filing of this document has been obtained from each signatory.
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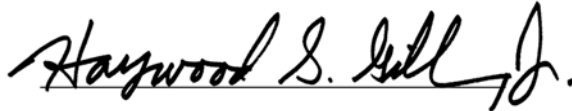
11 By: /s/ Dale J. Giali
12 Dale J. Giali

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that:

1. Defendants shall have until fourteen (14) days after the motion for remand is decided to file their response to plaintiff's amended complaint;
2. Defendants shall have until January 16, 2019 to file their opposition to plaintiff's motion for remand; and
3. Plaintiff shall have until January 30, 2019 to file his reply in support of his motion for remand.

Dated: December 18, 2018



HON. HAYWOOD S. GILLIAM, JR.
United States District Judge